

## Message Text

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PAGE 01 STATE 149947

16  
ORIGIN L-03

INFO OCT-01 EUR-25 ISO-00 SCS-03 SCA-01 CPR-02 PM-07

NSC-07 SP-03 SS-20 RSC-01 INR-10 SY-04 M-02 A-01

/090 R

DRAFTED BY L/M/SCA - H. F. SHAMWELL, JR.  
APPROVED BY L/M/SCA - K. E. MALMBORG  
EUR/EE-JMADDEL  
SCA/SCS (INFO)

----- 095236

R 112038Z JUL 74  
FM SECSTATE WASHDC  
TO AMEMBASSY WARSAW

LIMITED OFFICIAL USE STATE 149947

E.O. 11652: N/A  
TAGS: PFOR  
SUBJECT: CONSULAR ACCESS UNDER US-POLAND CONSULAR CONVENTION  
REF: WARSAW 3671

1. REFTEL REQUESTED DEPARTMENT'S GUIDANCE ON INTERNATIONAL-  
LY-ACCEPTED DEFINITION OF FREE COMMUNICATION IN CONNECTION  
WITH EFFORTS OF US CONSULAR OFFICERS TO PROVIDE ASSISTANCE  
TO DETAINED AMCIT HOLY. EMBASSY REPORTED THAT CONSULAR  
OFFICER DENIED PERMISSION VISIT PRIVATELY WITH HOLY, AND  
THAT PRESENCE OF POLISH OFFICIALS AT THE SAME TABLE OR  
HOVERING NEARBY PREVENTS UNRESTRICTED COMVERSATION AND FREE  
COMMUNICATION WITHIN MEANING OF ARTICLE 29, PARA 6 US-POLAND  
CONSULAR CONVENTION.

2. ISSUE RAISED BY EMBASSY HAS PREVIOUSLY BEEN EXAMINED BY  
DEPARTMENT IN RELATION TO EXPERIENCES AT OTHER POSTS. IN  
DEPARTMENT'S VIEW, THERE IS NO INTERNATIONALLY ACCEPTED RULE  
RELATING TO DEGREE OF FREEDOM OR PRIVACY WHICH RECEIVING  
STATE MUST EXTEND TO CONSULAR OFFICER ASSISTING DETAINED  
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PAGE 02 STATE 149947

SENDING STATE NATIONAL. SUCH RULE, IF IT EXISTED, WOULD

HAVE TO BE MODIFIED BY SPECIAL CIRCUMSTANCES OF DETENTION AND PARTICULAR RULES APPLIED BY LOCAL PRISON AUTHORITIES OR OTHER OFFICIALS OF RECEIVING STATE. (SEE VIENNA CONVENTION, ARTICLE 36(2).) NEVERTHELESS, THERE IS COMMENTARY TO THE EFFECT THAT A CONSULAR OFFICER'S RIGHT TO

COMMUNICATE FREELY WITH A DETAINED NATIONAL INCLUDES THE RIGHT TO SPEAK WITH HIM OUT OF THE HEARING, ALTHOUGH NOT NECESSARILY OUT OF SIGHT, OF AUTHORITIES OF THE RECEIVING STATE (E.G., PRISON OFFICIALS). IN ANY EVENT DEPARTMENT WOULD AGREE THAT PRESENCE OF POLISH OFFICIAL AT SAME TABLE AT WHICH CONSULAR OFFICER IS ATTEMPTING TO VISIT NATIONAL WOULD BE VIOLATION OF CUSTOMARY INTERNATIONAL LAW RULE AS WELL AS REQUIREMENTS OF ARTICLE 29, PARAGRAPH 6, OF CONSULAR CONVENTION. KISSINGER

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NNN

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** TREATY COMPLIANCE, CONSULAR AGREEMENTS, CONSULAR SERVICES  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 11 JUL 1974  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** golinofr  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1974STATE149947  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** H. F. SHAMWELL, JR.  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Film Number:** D740186-0572  
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**Line Count:** 76  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Office:** ORIGIN L  
**Original Classification:** LIMITED OFFICIAL USE  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 2  
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**Previous Classification:** LIMITED OFFICIAL USE  
**Previous Handling Restrictions:** n/a  
**Reference:** WARSAW 3671  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** golinofr  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 20 MAR 2002  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <20 MAR 2002 by izenbei0>; APPROVED <13 MAY 2002 by golinofr>  
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**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** CONSULAR ACCESS UNDER US-POLAND CONSULAR CONVENTION  
**TAGS:** PFOR, PL  
**To:** WARSAW  
**Type:** TE  
**Markings:** Declassified/Released US Department of State EO Systematic Review 30 JUN 2005